



September 4, 2018

VIA Electronic Delivery

CFPB, Attn: Chief FOIA Officer
1700 G Street NW
Washington, D.C. 20552
(855) 444-3642
CFPB_FOIA@consumerfinance.gov

Re: Freedom of Information Act Request

Dear Chief FOIA Officer:

Pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. §§ 552 *et seq.* and Consumer Financial Protection Bureau (CFPB or Bureau) regulations at 12 C.F.R. Part 1070, Democracy Forward Foundation submits this request for records.

Background

Seth Frotman, the longtime student loan ombudsman at the Consumer Financial Protection Bureau, has resigned in protest. The reason, according to his resignation letter, is that "it has become clear that consumers no longer have a strong, independent Consumer Bureau on their side."¹

Frotman identifies numerous ways that the CFPB has done so. These strategies include, undercutting enforcement, undermining the Bureau's independence, and shielding unscrupulous lenders. And he identifies specific instances of foul play by Bureau leadership, such as removing the student loan division from the enforcement division.²

Records Requested

In an effort to understand, and explain to the public the state of the CFPB's student loan operations, Democracy Forward Foundation requests that CFPB produce the following within twenty (20) business days:

1. All records that refer or relate to the resignation of Seth Frotman.

¹ <https://www.cnn.com/2018/08/27/politics/student-loan-official-resigns-cfpb/index.html>.

² <https://money.cnn.com/2018/05/09/news/economy/cfpb-mulvaney-student-lending/index.html>.

Request 1 is limited to the Office of the Director.

2. All calendars or schedules, including attachments and associated materials, of Seth Frotman.
3. Communications, including attachments thereto, between (1) Seth Frotman and (2) the Office of the Director, Eric Blankenstein, or Brian Johnson.
4. Communications between (1) the CFPB Office of the Director, Eric Blankenstein, or Brian Johnson and (2) student loan originators, servicers, and collectors, or their representatives.

The time period for this search is from November 21, 2017 to the date the search is completed.

Please search for records regardless of format, including paper records, electronic records, audiotapes, videotapes, photographs, data, and graphical materials. This request includes, without limitation, all correspondence, letters, emails, text messages, calendar entries, facsimiles, telephone messages, voice mail messages, and transcripts, notes, minutes, or audio or video recordings of any meetings, telephone conversations, or discussions. In searching for responsive records, however, please exclude publicly available materials such as news clips that mention otherwise responsive search terms.

FOIA requires agencies to disclose information, with only limited exceptions for information that would harm an interest protected by a specific exemption or where disclosure is prohibited by law. 5 U.S.C. § 552(a)(8)(A). In the event that any of the requested documents cannot be disclosed in their entirety, we request that you release any material that can be reasonably segregated. *See* 5 U.S.C. § 552(b). Should any documents or portions of documents be withheld, we further request that you state with specificity the description of the document to be withheld and the legal and factual grounds for withholding any documents or portions thereof in an index, as required by *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973). Should any document include both disclosable and non-disclosable material that cannot reasonably be segregated, we request that you describe what proportion of the information in a document is non-disclosable and how that information is dispersed throughout the document. *Mead Data Cent., Inc. v. U.S. Dep't of Air Force*, 566 F.2d 242, 261 (D.C. Cir. 1977).

If requested records are located in, or originated in, another agency, department, office, installation or bureau, please refer this request or any relevant portion of this request to the appropriate entity.

To the extent that the records are readily reproducible in an electronic format, we would prefer to receive the records in that format. However, if certain records are not available in that format, we are willing to accept the best available copy of each such record.

Please respond to this request in writing within 20 working days as required under 5 U.S.C. § 552(a)(6)(A)(i). If all of the requested documents are not available within that time period, we request that you provide us with all requested documents or portions of documents that are available within that time period. If all relevant records are not produced within that time period,

we are entitled to a waiver of fees for searching and duplicating records under 5 U.S.C. § 552(a)(4)(A)(viii)(I).

Fee Waiver or Reduction Requested

Pursuant to 5 U.S.C. § 552(a)(4)(A)(iii) and 12 C.F.R. § 1070.22, Democracy Forward Foundation requests a waiver of all fees associated with processing records for this request.

Democracy Forward Foundation is a “Representative of the news media” within the meaning of § 1070.22(b)(1)(iv). Democracy Forward Foundation “gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience” through its website, press releases, and social media outlets.³ *Id.*

Additionally, the subject of this request concerns the operations of the federal government, and the disclosures will likely contribute to a better understanding of these operations by the public in a significant way. Moreover, the request is for non-commercial purposes.

Pursuant to 13 C.F.R. § 1070.22(e)(1)(iii)(A), disclosure of the requested records “is in the public interest because: (A) Furnishing the information is likely to contribute significantly to public understanding of the operations or activities of the government.” This request pertains to “direct and clear” operations and activities of the CFPB--its supervision of the student loan industry and the resignation of its chief student loan regulator--and is “meaningfully informative about government operations or activities in order to “likely to contribute” to an increased public understanding of those operations or activities.” *Id.* at §§ 107.22(e)(2)(A)(i)–(ii). Specifically, this request seeks to address outstanding questions about the CFPB’s commitment to protecting student borrowers, such as whether the CFPB has suppressed enforcement and shielded unscrupulous lenders. The records would “contribute to the understanding of a reasonably broad audience of persons interested in the subject.” *Id.* at § 107.22(e)(2)(A)(iii). News of Seth Frotmans’ resignation generated significant interest by the media.⁴ The release of yet publicly unseen and unavailable records would enhance “[t]he public’s understanding of the subject in question, as compared to the level of public understanding existing prior to the disclosure.” *Id.* at § 107.22(e)(2)(A)(iv). The requested records will shed light on the government’s activities.

This request is “not primarily in the commercial interest of the requester.” *Id.* at § 1070.22(e)(1)(iii)(B). Democracy Forward Foundation is a nonprofit organization organized under Internal Revenue Code § 501(c)(3). A core mission of Democracy Forward Foundation is to educate the public about improper government activity. Democracy Forward Foundation intends to use the materials gathered to educate the public through its website, press releases, and social media outlets. Because “[t]he CFPB ordinarily shall presume that where a news media requester has satisfied the public interest standard, the public interest will be the interest

³ See Democracy Forward Twitter, @DemocracyFWD; Democracy Forward Facebook, <https://www.facebook.com/DemocracyFwd/>; <https://democracyforward.org/work/democracy-forward-foundation-doc/>.

⁴ E.g., <https://www.wsj.com/articles/cfpb-student-loan-official-quits-citing-bosss-enforcement-policy-1535398407>.

primarily served by disclosure to that requester,” therefore the “public interest is greater in magnitude than that of any identified commercial interest in disclosure.” *Id.* at 1070.22(e)(3)(ii).

Accordingly, Democracy Forward Foundation qualifies for a fee waiver.

Conclusion

If you need clarification as to the scope of the request, have any questions, or foresee any obstacles to releasing fully the requested records within the 20-day period, please contact Nitin Shah as soon as possible at foia@democracyforward.org or 202-448-9090.

We appreciate your assistance and look forward to your prompt response.

Sincerely,

/s/ Nitin Shah
Democracy Forward Foundation